



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2015-0071]

RIN 1625-AA00

Safety Zone; 24 Mile Tampa Bay Marathon Swim, Tampa Bay; Tampa, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard establishes a temporary moving safety zone on the waters of Tampa Bay in the vicinity of Tampa, Florida during the 24 Mile Tampa Bay Marathon Swim. The 24 Mile Tampa Bay Marathon Swim is scheduled to take place on April 25, 2015.

Approximately 30 swimmers are anticipated to participate in the marathon swim event. No spectators are expected to be present during the event. The safety zone is necessary to provide for the safety of the participants, participant vessels, and the general public on the navigable waters of the United States during the event. The safety zone will establish a moving protective area around safety vessels including kayaks involved in the race.

Persons and vessels, except those participating in the event, will

be prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port St. Petersburg or a designated representative.

DATES: This rule will be effective from [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER] through April 25, 2015. This rule will be enforced from 4 a.m. until 9 p.m. on April 25, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2015-0071]. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Tyrone J. Stafford, Sector St. Petersburg Prevention Department, U.S. Coast Guard; telephone (813) 228-2191, e-mail D07-SMB-Tampa-WWM@uscg.mil. If you have questions on viewing or submitting material to the docket, call Rich Walter, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

A. Regulatory History and Information

On March 9, 2015, a notice of proposed rulemaking (NPRM) entitled Safety Zone; 24 Mile Tampa Bay Marathon Swim; Tampa Bay; Tampa, FL was published in the Federal Register (80 FR 12365). Only 1 comment was received; however, the comment was provided under a separate event (Swim Around Lido Key) comment section. The comment stated concern for a safety zone encompassing the entire 24 mile swim route for the event. The safety zone will be a moving zone that will not impact any other areas of the race path while not in use by the swimmers during the race.

Under [5 U.S.C. 553\(d\) \(3\)](#), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to minimize potential hazards associated with a marathon swim with approximately 30 swimmers involved.

B. Basis and Purpose

The legal basis for this rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1,

6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

The purpose of the rule is to provide for the safety of life on navigable waters of the United States during the swimming event.

C. Discussion of the Final Rule

On April 25, 2015, Distance Matters, Inc. is sponsoring The 24 Mile Tampa Bay Marathon Swim. This open water swim event will be held on the waters of Tampa Bay, Tampa, Florida. Approximately 30 participants are anticipated to participate in the event. No spectator vessels are expected during the event.

This rule will establish a temporary moving safety zone that will encompass certain waters of Tampa Bay located in the vicinity of Tampa, Florida. The temporary moving safety zone will be enforced from 4 a.m. until 9 p.m. on April 25, 2015. The safety zone will establish a moving protective area around all safety vessels involved in the race. Persons and vessels, except those participating in the event, will be prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port St. Petersburg or a designated representative.

Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the enforcement areas by contacting the Captain of the Port St. Petersburg by telephone

at (727) 824-7506, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the event area is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and/or on-scene designated representatives.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The economic impact of this rule is not significant for the following reasons: (1) the safety zone will be enforced for seventeen hours; (2) although non-participant persons

and vessels will not be able to enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port St. Petersburg or a designated representative, they may operate in the surrounding areas during the enforcement period; (3) non-participant persons and vessels may still enter, transit through, anchor in, or remain within the safety zone during the enforcement period if authorized by the Captain of the Port St. Petersburg or a designated representative; and (4) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and/or Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of non-participant vessels intending to enter, transit through, anchor

in, or remain within the safety zone described in this regulation during the respective enforcement period. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year.

Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of

power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves establishing a temporary safety zone that will be enforced for 17 hours total. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

E. List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS.

1. The authority citation for part 165 continues to read as follows:

Authority:

33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

2. Add a temporary § 165.T07-0071 to read as follows:

§ 165.T07-0071 Safety Zone; 24 Mile Tampa Bay Marathon Swim, Tampa Bay; Tampa, FL.

(a) The following regulated area is a safety zone: All waters within a 50-yard radius around safety vessels including kayaks.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port St. Petersburg in the enforcement of the regulated areas.

(c) Regulations. (1) Non-participant persons and vessels are prohibited from entering, transiting through, anchoring in or remaining within the regulated area unless authorized by the Captain of the Port St. Petersburg or a designated representative.

(2) Non-participant persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port St. Petersburg by telephone at (727) 824-7506, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and/or on-scene designated representatives.

(d) Enforcement date. This rule will be enforced from 4 a.m. until 9 p.m. on April 25, 2015.

Dated: April 1, 2015

G. D. Case

Captain, U.S. Coast Guard

Captain of the Port St. Petersburg

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